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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

**WILLIAM JEROME RUTH, individually, and
as Wrongful Death Representative of the
ESTATE OF CYNTHIA SHOOK RUTH,**

Plaintiff,

v.

**BEARTOOTH ELECTRIC COOPERATIVE,
INC., a Montana Corporation, and ASPLUNDH
TREE EXPERT, LLC, a Pennsylvania Limited
Liability Company,**

Defendants.

Case No. 22-CV-00230-KHR

**PLAINTIFF'S EXPERT WITNESS
DISCLOSURE**

Plaintiff, William Jerome Ruth (“Jerry”), individually and as Wrongful Death Representative of the Estate of Cynthia Shook Ruth, by and through his attorneys of record, submits his Expert Witness Disclosure according to the Court’s Order Granting Extension of Expert Witness Designation Deadlines dated July 24, 2023 (Doc. 24) and Fed. R. Civ. P. 26(a)(2)(B).

PRELIMINARY STATEMENT

1. Plaintiff reserves the right to name rebuttal expert(s) and submit reports as allowed under Fed. R. Civ. P. 26(a)(2)(D) and Order Granting Extension of Expert Witness Deadlines (Doc. 24) entered July 24, 2023.
2. Plaintiff reserves the right to supplement his Expert Witness Disclosures to offer opinions that are in response to evidence, testimony, information, or documents that have not yet been disclosed by Defendants as provided under the Court’s Order on Initial Pretrial Conference dated February 6, 2023 (Doc. 17) and Fed. R. Civ. 26(a)(2)(E).
3. Plaintiff reserves the right to develop demonstrative aids to aid the witnesses in demonstrating opinions to the jury including illustrations showing the differences between their experts’ opinions and those of Defendants’ expert witnesses after those Reports are disclosed. Fed. R. Civ. P. 26(a)(2)(B)(iii).

RETAINED EXPERT WITNESSES

The persons identified below are experts retained by Plaintiff who are expected to testify as expert witnesses at trial. All of their opinions are expressed to a reasonable degree of certainty within their professional discipline.

1. **Alan Carlson**
Alan Carlson & Associates, LLC
13989 Kelsey Drive
Chico, CA 95973

Alan Carlson is a Wildland Fire Investigator who has investigated the origin and cause of thousands of fires including some of the most complex wildland fires in the United States. He has contributed to several industry leading publications that provide methods, procedures, and national guidelines for wildland fire investigation. Carlson investigated the origin and cause of the Clark Fire, and his report contains a narrative and chronology of that investigation that began in March 2022, approximately 4 months after the Clark Fire ignited, including physical site and evidence inspections, and ends with his conclusions regarding the fire's origin and cause. That is, on November 15, 2021, encroaching vegetation from a cottonwood contacted the conductor and ignited the Clark Fire. All other reasonable causes of the Clark Fire have been considered and eliminated.

- A. The Curriculum Vitae of Mr. Carlson is designated as:

Carlson 0094-0102 Attachment A

- B. The Compensation/Fee Schedule of Mr. Carlson is designated as:

Carlson 0103 Attachment B

- C. Mr. Carlson has not testified as an expert at trial or by deposition in the prior four years.

- D. The report authored by Mr. Carlson that contain his opinions and the basis of his opinions is designated as:

Carlson 0001-0093 Report of Investigation

- E. The data and information that Mr. Carlson considered in his evaluation and relies upon in forming his opinions is cited or referenced within and/or attached to his report. Due to the volume of Attachments A-AA, the material already exchanged in discovery is not being exchanged.

Carlson 0104-0115 Attachment C - Fire Progression Diagrams
(includes JPEGs and PowerPoint with no Bates Stamp)

No Bates Stamp Attachment D – Clark Fire Progression FPI Data Log
(Excel format)

Carlson 0116-0126 Attachment E - Supplementary Report – Carlson Interviews (sub Bates 0003-0013)

Previously exchanged Attachment F - Carlson Initial Scene Photographs
Carlson Photos 4/20/22 00001-001181
Carlson Photo Logs
Carlson 0127-0177

Previously produced Carlson 0178-0188	Attachment G - Carlson Evidence Recovery Photographs Carlson Photos 6/16/22 001183-001281 Carlson Photo Logs
Previously exchanged Previously exchanged Carlson 0189-0209	Attachment H – Evidence Exam Recovery Photographs Carlson Photos 4/11/23 001287-001444 Carlson Photos 4/12/23 001445-001493 Carlson Photo Logs
Carlson 0210	Attachment I – Bennett Draw annotated map (sub Bates 0001)
Carlson 0211-0226 Carlson 0227	Attachment J – Carlson evidence PowerPoint Carlson P0495 Enlarged
Previously exchanged	Attachment K – Pam Nelson fire video
Carlson 0228 Previously exchanged	Attachment L – Pam Nelson map and photos P Nelson annotated map (sub Bates 0002) P Nelson Photos 0021, 0006, 0017
Previously exchanged	Attachment M – Nate Hoffert Report & Photos
Previously exchanged	Attachment N – IRIS Investigation Report & Photos
Previously exchanged	Attachment O – Eric Black/Knott Investigation Report, Photos, CV
Previously exchanged	Attachment P – Vegetation Clearance Contract (Clark Fire 000045-000053)
See attached	Attachment Q – Paul Werth Reports (Werth 0001-0043, 0045-0047)
See attached	Attachment R – GPRS Deliverable (GPRS 0001-0029)
Previously exchanged	Attachment S – Fire news articles (Clark Fire 000036-000041)
Previously exchanged Previously exchanged	Attachment T – Pam Nelson Photos P Nelson Photos 0001-0020, Ex. 35 video (4-5-22) G. Hutton 0001-0014

No Bates Stamp/Previously Exchanged	Attachment U – Char & Fungus Images (JPEG only)
Previously Exchanged	Attachment V – BEC Rule 26 video/photos
Carlson 0229-0425 Carlson 0426-0443 Carlson 0444-0457	Attachment W – Reference Materials NWCG Fire Behavior Field Guide 2017 The World is Burning, et al. Windborne Firebrands
Carlson 0458 Previously Exchanged	Attachment X – Lab Exam 7-27-23 Sign in sheet Micron Imaging - KDM
Previously Exchanged	Attachment Y – Sam Shuck evidence recovery photos (jpeg file of Jensen Hughes Photos 0157-0494)
No Bates Stamp/Previously Exchanged	Attachment Z – Sam Shuck drone imagery (6-16-22)
Previously Exchanged	Attachment AA – Micron Images – KDM 0047-0111

- F. The materials and exhibits that summarize or support the opinions of Mr. Carlson and which may be used as trial exhibits to summarize or support Mr. Carlson's opinions are also referenced above and/or are cited within and/or attached to his report.

2. **Paul Way**
Sam Shuck
Jensen Hughes
23109 55th Avenue W.
Mountlake Terrace, WA 98043

Paul Way is a licensed Electrical Engineer with an added degree in Forest Resource Management. He is a NAFI Certified Fire & Explosion Investigator and an IAAI Certified Fire Investigator. Mr. Way has performed thousands of investigations dealing with electricity and fires, including wildland fires. He has vast experience in powerline-vegetation ignitions and in vegetation management processes. Mr. Way and his team began investigating the Clark Fire in March 2022, which included onsite investigation and documentation, several evidence examinations, and destructive laboratory testing. The conclusions reached by Mr. Way are detailed in his report, including the opinion that vegetation caught fire from embers that were created after tree conductor contact occurred at the premises of 197 Louis L'Amour Lane in Clark, Wyoming. Further, Mr. Way has opined that the fire occurred because Defendants failed to ensure vegetation was cleared from the utility right-of-way.

Sam Shuck, also an Electrical Engineer and Certified Fire and Explosion Investigator with Jensen Hughes, participated in the Jensen Hughes full investigation and analysis. He has further provided technical review of Paul Way's report.

A. The Curriculum Vitae of Mr. Way is designated as:

Way 0044-0048.

The Curriculum Vitae of Mr. Shuck is designated as:

Shuck 0001-0002.

B. The Compensation/Fee Schedule of Mr. Way is designated as:

Way 0050.

C. A list of cases in which Mr. Way has testified as an expert at trial or by deposition in the prior four years is designated as:

Way 0049.

D. The report authored by Mr. Way that contain his opinions and the basis of his opinions is designated as:

Way 0001-0043.

E. The data and information that Mr. Way considered in his evaluation and relies upon in forming his opinions is cited or referenced within and/or attached to his report.

F. The materials and exhibits that summarize or support the opinions of Mr. Way and which may be used as trial exhibits to summarize or support Mr. Way's opinions are also cited or referenced within and/or attached to his report.

**3. John W. Goodfellow
BioCompliance Consulting, Inc.
55th Avenue W.
Mountlake Terrace, WA 98043**

John Goodfellow is a Utility Arborist who has over 30 years' experience in the electric and gas utility industries; having held positions of increasing responsibility for vegetation management, T&D operations, maintenance, and engineering at three large investor owned electric & gas utilities. He has been the Principal Researcher on several R&D projects focusing on the modes and causes of trees cause power interruptions, served on industry standards

committees, writing pruning standards for utility line clearance work, is cited as a contributor to Dr. Alex Shigo's pocket field guide "Pruning Trees Near Electric Utility Lines." Mr. Goodfellow also began his Clark Fire investigation in 2022, and did his own physical examination of the evidence collected from the Clark Fire origin site. With the aid of LiDAR technology, Mr. Goodfellow reached several conclusions about the dynamic forces that were at play upon the conductor and the tree on November 15, 2021, resulting in persistent tree conductor contact and the generation of firebrands or embers. He also opines that the failure of the Defendants to prune and establish a 10-foot to center line clearance distance facilitated this potential source for the ignition of the Clark Fire.

- A. The Curriculum Vitae of Mr. Goodfellow is designated as:
Goodfellow 0001-0007.
- B. The Compensation/Fee Schedule of Mr. Goodfellow is designated as:
Goodfellow 0008.
- C. A list of cases in which Mr. Goodfellow has testified as an expert at trial or by deposition in the prior four years is designated as:
Goodfellow 0009.
- D. The report authored by Mr. Goodfellow that contain his opinions and the basis of his opinions is designated as:
Goodfellow 0010-0019.
- E. The data and information that Mr. Goodfellow considered in his evaluation and relies upon in forming his opinions is cited or referenced within and/or attached to his report.
- F. The materials and exhibits that summarize or support the opinions of Mr. Goodfellow and which may be used as trial exhibits to summarize or support Mr. Goodfellow's opinions are also cited or referenced within and/or attached to his report.

**5. Ana Cristina Fulladolsa Palma, Ph.D.
Colorado State University
#B-320
Fort Collins, CO 80523**

Dr. Ana Cristina Fulladolsa Palma is a Research Scientist and Diagnostician employed as the Director of the Plant Diagnostic Clinic at the College of Agricultural Sciences at Colorado State University. Dr. Fulladolsa attended examinations, including microscopic examination, of

organic evidence collected at the Clark Fire origin site. Her opinions and findings concerning that evidence are outlined in her report.

- A. The Curriculum Vitae of Dr. Fulladolsa Palma is designated as:

Fulladolsa Palma 0010-0016

- B. The Compensation/Fee Schedule of Dr. Fulladolsa Palma is designated at:

Fulladolsa Palma 0005

- D. Dr. Fulladolsa Palma has not testified as an expert at trial or by deposition in the prior four years.

- D. The report authored by Dr. Fulladolsa Palma that contain her opinions and the basis of her opinions is designated as:

Fulladolsa Palma 0001-0009

- E. The data and information that Dr. Fulladolsa Palma considered in her evaluation and relies upon in forming her opinions is cited or referenced within and/or attached to her report.

- F. The materials and exhibits that summarize or support the opinions of Dr. Fulladolsa Palma and which may be used as trial exhibits to summarize or support her opinions are also cited or referenced within and/or attached to her report.

5. Paul Werth

**Weather Research & Consulting Service, LLC
23312 NE 240th Avenue
Battle Ground, Washington 98604**

Paul Werth is a Fire Weather Meteorologist retired from the National Weather Service and the U.S. Fish and Wildlife Service. Mr. Werth is an experienced Incident Meteorologist and has supported numerous wildland and prescribed fires from Oregon to Florida. He presents fire weather seminars nationally and internationally, has authored and co-authored related publications, as well as participated in the development and instruction of many fire-weather related postsecondary courses.

Mr. Werth's conclusions are detailed in his reports which generally establish that the Line Creek area experienced a strong westerly downslope Chinook windstorm (outflow winds from Bennett Draw) on November 15-16, 2021, with peak wind gusts of 85 mph or stronger and sustained winds of 54-60 mph. The strong winds were correctly forecast by the NWS well in advance of the event, the winds occur regularly in this area in the fall and winter months, the

winds are not a historically rare event, and lightning did not occur within 600 miles of the ignition site.

- A. The Curriculum Vitae of Mr. Werth is designated as:

Werth 0024.

- B. The Compensation/Fee Schedule of Mr. Werth is designated as:

Werth 0044.

- C. Mr. Werth has not testified as an expert at trial or by deposition in the prior four years.

- D. The reports authored by Mr. Werth that contain his opinions and the basis of his opinions is designated as:

Werth 0001-0023, 0025-0030, 0037-0043, 0045-0047.

- E. The data and information that Mr. Werth considered in his evaluation and relies upon in forming his opinions is cited or referenced within and/or attached to his report. See also Werth 0031-0036.

- F. The materials and exhibits that summarize or support the opinions of Mr. Werth and which may be used as trial exhibits to summarize or support Mr. Werth's opinions are also cited or referenced within and/or attached to his report.

6. Eric Tittle

**TruePoint Laser Scanning, LLC
3232 Central Park W., Ste. B
Toledo, OH 43617**

TruePoint, a subsidiary of GPRS Laser Scanning, was retained to conduct 3D color laser scanning and produce a point cloud with photography of the fire origin site at 197 Louis Lamour Lane near Clark, Wyoming. Eric Tittle, Construction Engineer/CAD Designer, assisted with organizing the project team and data and has submitted a report summarizing the assignment, methodology, and other extraction of data and deliverables from the technology.

- A. The Curriculum Vitae of Mr. Tittle is designated as:

Will be supplemented.

- B. The invoices from TruePoint/GPRS are designated as:

GPRS 0040-0041

C. Mr. Tittle has not testified as an expert at trial or by deposition in the prior four years.

D. The report containing a summary of the assignment, methodology and deliverables is designated as:

GRPS 0038-0039 Report
GRPS 0001-0037 Deliverables

E. The 3D color laser scanning, point cloud with photography, 2D deliverables, and other miscellaneous data from the technology have been relied upon by Plaintiff's experts in forming opinions and conclusions in this case and is expected to be utilized to its fullest extent to support and illustrate Plaintiff's experts' opinions at trial.

**7. Christopher Leatherman
Aerial Solutions of Wyoming
701 Express Drive, Apt. 125
Gillette, WY 82718**

Chris Leatherman, a FAA certified drone (UAS) pilot, was retained to fly a drone photogrammetry mission over the fire origin site at 197 Louis Lamour Lane near Clark, Wyoming. Mr. Leatherman has submitted a report summarizing his qualifications, the assignment, and equipment used to produce the general scene images.

A. The Curriculum Vitae of Mr. Leatherman is designated as:

ASWY 0001-0002.

B. The invoice from Aerial Solutions of Wyoming is designated as:

ASWY 0003.

C. Mr. Leatherman has not testified as an expert at trial or by deposition in the prior four years.

D. The report containing a summary of the drone photogrammetry mission is designated as:

ASWY 0004.

E. The drone imagery may have been relied upon by Plaintiff's experts in forming opinions and conclusions in this case and is expected to be utilized to its fullest extent to support and illustrate Plaintiff's experts' opinions at trial.

**8. David I. Rosenbaum, Ph.D.
Economic Consulting LLC
7730 Lowell Avenue
Lincoln, NE 68506**

Dr. Rosenbaum is a Forensic Economist, who will testify to his training, credentials, and experience in economics and finance, as more fully shown by his curriculum vitae. Dr. Rosenbaum concludes that the estimated economic value of Cindy Ruth's loss of life is \$950,796. The present value of that loss is further discussed in his report.

- A. The Curriculum Vitae of Dr. Rosenbaum is designated as:

Rosenbaum 0001-0004.

- B. The Compensation/Fee Schedule of Dr. Rosenbaum is designated as:

Rosenbaum 0019.

- C. A list of cases in which Dr. Rosenbaum has testified as an expert at trial or by deposition in the prior four years is designated as:

Rosenbaum 0016-0018.

- D. The report authored by Dr. Rosenbaum that contain his opinions and the basis of his opinions is designated as:

Rosenbaum 0005-0015.

- E. The data and information that Dr. Rosenbaum considered in his evaluation and relies upon in forming his opinions is cited or referenced within and/or attached to his report. See also Rosenbaum 0020-0032.

- F. The materials and exhibits that summarize or support the opinions of Dr. Rosenbaum and which may be used as trial exhibits to summarize or support Dr. Rosenbaum's opinions are also cited or referenced within and/or attached to his report.

NON-RETAINED EXPERT WITNESSES

Plaintiff anticipates the following witnesses may be called to testify at trial, and who by their knowledge, skill, experience, training, or education may be experts as defined by the Rules.

1. **All reporting and/or investigating fire personnel, law enforcement, first responders, and dispatch personnel disclosed in the course of discovery including, but not limited to:**
 - a. **Nate Hoffert, Park Co. Fire District #4 Chief.** See deposition.
 - b. **Dave Hoffert, Former Park Co. Fire District #4 Chief.** See deposition.
 - c. **Larry Dodge, Initial Responder, Park Co. Fire District #4.** See deposition.
 - d. **Darrell Steward, Park Co. Sheriff.** See Sheriff's Report Narrative PCSO 0001-0006.
2. **Employees, agents, or representatives of Defendant Asplundh Tree Expert, LLC disclosed in the course of discovery including, but not limited to:**
 - a. **Jon Paul Paulson, Region Field Manager.** See deposition and exhibits.
 - b. **Perry Toler, Tree Trimmer/Foreman.** See deposition and exhibits.
 - c. **Charles Rowe, Foreman.** See deposition and exhibits.
3. **Employees, agents, or representatives of Defendant Beartooth Electric Cooperative, Inc., disclosed in the course of discovery including, but not limited to:**
 - a. **Kevin P. Owens, General Manager.** See deposition and exhibits.
 - b. **Eric Elton, Line Superintendent.** See deposition and exhibits.
4. **Dr. Thomas Bennett, Pathologist; 6 Canyon View Dr., Sheridan, Wyoming. Dr. Bennett performed the autopsy of Cindy Ruth on behalf of the Park County Coroner's Office.** See PCC TB 0001-PCC TB 0009 and disclosed photographs.
5. **Denver Schlaeppi, Rural Utilities Service, RUS General Field Representative; P.O. Box 20792, Billings, MT 59104.**
6. **Christian Perry McCollom, Public Service Commission of Wyoming, Facility Engineer Supervisor; 2515 Warren Ave, Ste. 300, Cheyenne, Wyoming.**
7. **David W. Piroutek, Public Service Commission of Wyoming, Engineering Supervisor; 2515 Warren Ave, Ste. 300, Cheyenne, Wyoming.**
8. **And any other non-retained expert disclosed by Defendants in the course of discovery who will render expert opinion.**

EXHIBITS

In addition to exhibits, figures, animation, and tables referenced in their attached reports and/or in Plaintiff's disclosures, any material/documents reviewed by and/or discussed in the depositions of the expert witnesses, both retained and non-retained, may be used as an exhibit at

trial to illustrate their testimony, or summarize, support or describe the basis for their opinions. These exhibits, figures, animation, and tables may be presented to the jury in a variety of ways, including paper, projection, digitally via computer or physical models.

All trial exhibits to be utilized by Plaintiff in connection with any/all lay and expert witnesses at trial (which have not yet been and cannot now be determined, particularly, prior to disclosure of defense expert witness reports and completion of discovery) will or may include deposition exhibits and/or other documents/things produced and/or identified in the parties' disclosures and discovery responses, including demonstrative aids.

DEFENSE EXPERTS

Plaintiff reserves the right to call as expert witnesses to testify at trial (in person, electronically and/or by the reading of videotape deposition testimony) any expert witness (retained or non-retained) designated by Defendants.

Dated this 15th day of August, 2023.

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Kenneth E. Barker, do certify that on the 15th day of August, 2023, a true and correct copy of the **PLAINTIFF'S EXPERT WITNESS DISCLOSURE** was served in the following manner upon the following person(s), by placing the same in the service indicated, postage prepaid as applicable, addressed as follows:

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